IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4329 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHARMA & COMPANY

Versus

DHARAMSHIBHAI BACHUBHAI VAJA

Appearance:

1. Special Civil Application No. 4329 of 2001

MR MANISH R BHATT for Petitioner No. 1

MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 27/02/2002

ORAL JUDGEMENT

#. Heard Mr.M.R.Bhatt, learned advocate appearing on behalf of the petitioner and Mr.R.D.Rawal, learned Advocate for respondent workman.

#. This petition is filed on 26th March, 2001. In the present petition, RULE has been issued by this Court on 18th July, 2001 and ad-interim relief has also been granted in terms of para-12[b] of the prayer clause. The challenge in the present petition is against the award passed by the Labour Court, Bhavnagar in Reference [LCB] No.325/1993 dated 28th July, 2000.

#. It is noticed that the award impugned in this petition has been passed by the Labour Court, Bhavnagar in absence of the petitioner and therefore, impugned award is exparte passed by the Labour Court concerned. Therefore, considering the fact that the petitioner is having an alternative statutory effective remedy available under Rule 26-A of the Industrial Disputes [Gujarat] Rules, 1966 to file an application for setting aside the exparte award before the concerned Labour Court and simultaneously, the Labour Court has also powers to grant interim stay against exparte award under Rule 26-B of the said Rules. The Labour Court is also empowered to condone the delay, if any, in filing such application. Therefore, according to my opinion, present petition cannot be entertained only on that count that the petitioner is having an alternative effective statutory remedy under the Industrial Disputes [Gujarat] Rules, 1966. However, it is open to the petitioner to file such application for setting aside the exparte award within period of two weeks from the date date of receiving the copy of this order along with interim stay application as well as delay condonation application. In the event of filing of such application, it is directed to the Labour Court concerned to consider the question of delay in accordance with law keeping in mind the pendency of this petition before this Court. It is also directed to the Labour Court, Bhavnagar to decide such application within period of three months from the date of receiving copy of this order. However, it is directed to the respondent workman not to enforce the award in question till the Labour Court concerned passes any order in application that may be preferred by the petitioner as directed above.

#. It is also observed that this Court has passed this order without entering into merits of the matter. At the time of issuing notice by this Court on 20th June, 2001, this Court has directed the petitioner to deposit before this Court Rs.2500/- payable to the respondent workman. Mr.M.R.Bhatt, learned advocate for petitioner has submitted that said amount as directed by this Court, has been deposited by the petitioner before this Court. Considering this fact, when this Court is disposing this

matter today, Registry of this Court is directed to pay said amount of Rs.2500/- to the respondent workman concerned by way of A/c payee cheque on being properly identified by Mr.R.D.Rawal, learned advocate for the respondent workman.

#. In view of above observations and directions, present petition stands disposed of accordingly. Rule discharged. No order as to costs.

Date : 27-2-2002 [H.K.Rathod, J.]

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